IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH.

CWP NO. 18100 of 2006

DATE OF DECISION: 27.11.2006

Hargurbir Singh ....Petitioner

Versus

State of Punjab ....Respondent.

CORAM: HON'BLE MR.JUSTICE J.S. KHEHAR
HON'BLE MR. JUSTICE S.D. ANAND

PRESENT: Mr. R.S. Bains, Advocate
for the petitioner.

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J.S. Khehar, J.

The petitioner passed his Matriculation examination in 1991. He acquired the 10+2 qualification in 1993. Thereafter he successfully qualified the Bachelor in Physical Education course from the Punjabi University, Patiala, in 2000. On account of the fact, that the petitioner wanted to pursue his higher education in physical education, he enrolled himself for the B.P.Ed. course and qualified the same in 2002. On the basis of the qualifications acquired by the petitioner, he claims that he is eligible for appointment against the post of Lecturer (Physical Education), as also, Master (Physical Education).

The posts of Lecturer (Physical Education) were advertised on 21.10.2006. The petitioner responded to the aforesaid advertisement well before the last date of submission of the application form. It was the

desire of the petitioner to compete for selection and appointment to the post of Lecturer (Physical Education),as well as, Master (Physical Education), from the reserved category of wards of freedom fighters. Despite the fact that 51 posts of freedom fighters had been advertised, not a single post is stated to have been reserved for the category of freedom fighters. On the issue in hand, the grievance of the petitioner is that executive instructions issued by the State Government envisage a reservation of 1 percent seats for the children and grandchildren of freedom fighters. It is, therefore, sought to be projected, that although 51 posts of Lecturer (Physical Education) have been advertised, not a single post has been reserved for freedom fighters, from amongst the posts of Lecturers (Physical Education). A similar grievance has been aired by the petitioner in respect of the advertised posts of Master (Physical Education). It is this aspect of the matter, which is subject matter of challenge at the hands of the petitioner.

During the course of hearing of this case on 16.11.2006, we required learned counsel for the petitioner to invite our attention to the 100 point roster prepared by the State Government so as to examine the exact roster points for filling up the posts reserved for wards of freedom fighters. In furtherance of our desire, the petitioner has moved Civil Misc.No.19683 of 2006. The same is hereby allowed. Annexure P-13, appended thereto, is taken on record. We have perused Annexure P-13. The same only depicts that the State Government had made a reservation of 2 percent posts for the children and grandchildren of freedom fighters in the process of direct recruitment to government service. The query posed to the learned counsel for the petitioner has remained

unanswered,namely, the learned counsel for the petitioner has not placed on the record of this case the 100 point roster prepared by the State Government, for giving effect to the reservation for wards of freedom fighters.

In view of the non-compliance of the directions issued by this Court, we are of the view, that the petitioner has not made available to this Court sufficient material, on the basis of which the controversy raised by the petitioner can be adjudicated upon. On the issue of reservation, it is now well settled at the hands of the Apex Court that reservations should ordinarily not exceed 50 percent. In order to give effect to the aforesaid mandate of the Apex Court, State Governments have introduced reservations,vertically as well as horizontally. In order to determine, whether or not, the reservations envisaged under the policy instructions issued by the State Government have been given effect to, it would, first of all, have to be determined, whether the reservation for the category of freedom fighters is a vertical reservation or a horizontal reservation. No such material has been placed on the record of this case . It order to determine this controversy, it would also have to be determined, which roster point in the cadre of Lecturer (Physical Education) was exhausted at the time of the immediately preceding process of appointment by way of direct recruitment. Despite our asking, learned counsel for the petitioner could not furnish even the aforesaid data to us.

Thus viewed, we are of the view, that adequate material has not been placed on the record of this case, on the basis of which the controversy in hand can be examined and disposed of.

We have, therefore, no alternative, but to dismiss this petition. Ordered accordingly.

(J.S. Khehar)
Judge

(S.D. Anand)
Judge

November 27, 2006.
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